

Attachment B

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

MARTIN SCHNEIDER, SARAH
DEIGERT, LAURIE REESE, THERESA
GAMAGE, TIFFANIE ZANGWILL, and
NADIA PARIKKA, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

CHIPOTLE MEXICAN GRILL, INC., a
Delaware Corporation,

Defendant.

Case No. 4:16-cv-02200-HSG (KAW)

**DECLARATION OF LAURENCE D. KING
IN SUPPORT OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

Judge: Hon. Haywood S. Gilliam, Jr.
Date: February 8, 2018
Time: 2:00 p.m.
Courtroom: 2, 4th Floor

**REDACTED VERSION OF DOCUMENT
PURSUANT TO 9-18-2018 COURT ORDER**

1 I, Laurence D. King, declare as follows:

2 1. I am a partner at Kaplan Fox & Kilsheimer LLP (“Kaplan Fox”), counsel for
3 Plaintiffs Martin Schneider, Sarah Deigert, Theresa Gamage, and Nadia Parikka (“Plaintiffs”). I
4 submit this Declaration in Support of Plaintiffs’ Motion for Class Certification. I have personal
5 knowledge of the facts stated in this Declaration and, if called a witness, I could and would testify
6 competently to them.

7 2. Attached hereto as Exhibit 1 is a true and correct copy of the signage entitled “A
8 Farewell to GMOs,” produced by Chipotle in this litigation and bearing the Bates stamp
9 CMG/7184-000146.

10 3. Attached hereto as Exhibit 2 is a true and correct copy of the signage entitled
11 “Food with Integrity,” produced by Chipotle in this litigation and bearing the Bates stamp
12 CMG/7184-000145.

13 4. Attached hereto as Exhibit 3 is a true and correct copy of the signage entitled “A
14 Farewell to GMOs,” produced by Chipotle in this litigation and bearing the Bates stamp
15 CMG/7184-000183-84.

16 5. Attached hereto as Exhibit 4 is a true and correct copy of true and correct copy of
17 excerpts from the transcript from the Videotape Rule 30(b)(6) Deposition of Ryan Murrin, on
18 behalf of Chipotle Mexican Grill, Inc., taken May 26, 2017. Because certain parts of Mr.
19 Murrin’s testimony have been marked “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to
20 file it under seal.

21 6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from Defendant
22 Chipotle Mexican Grill, Inc.’s Responses to Plaintiffs’ First Set of Requests for Admission, dated
23 June 29, 2017.

24 7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from Defendant
25 Chipotle Mexican Grill, Inc.’s Responses to Plaintiffs’ First Set of Interrogatories, dated June 29,
26 2017.

27 8. Attached hereto as Exhibit 7 is a true and correct copy of an email to Joshua Brau
28 from “Chipotle Support,” dated April 7, 2016, concerning “CONCERNS ABOUT GMO

1 LAWSUIT,” produced by Chipotle in this litigation and bearing the Bates stamp CMG_7184-
2 008794-95. Because Chipotle has designated this document “HIGHLY CONFIDENTIAL,”
3 Plaintiffs will seek leave to file it under seal.

4 9. Attached hereto as Exhibit 8 is a true and correct copy of an email to Joshua Brau
5 from “Chipotle Support,” dated September 21, 2015, concerning “Reply from Chipotle – non-
6 GMO, take it further,” produced by Chipotle in this litigation from Joshua Brau’s custodial files,
7 and bearing the Bates stamp CMG_7184-008781. Because Chipotle has designated this
8 document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

9 10. Attached hereto as Exhibit 9 is a true and correct copy of an email to Joshua Brau
10 from “Chipotle Support,” dated May 13, 2015, concerning “GMO/ MEAT COMMENT,”
11 produced by Chipotle in this litigation from Joshua Brau’s custodial files, and bearing the Bates
12 stamp CMG_7184-008707. Because Chipotle has designated this document “HIGHLY
13 CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

14 11. Attached hereto as Exhibit 10 is a true and correct copy of an email to Joshua Brau
15 from “Chipotle Support,” dated May 21, 2015, concerning “GMO ANIMAL FEED- MAY 21,”
16 produced by Chipotle in this litigation from Joshua Brau’s custodial files, and bearing the Bates
17 stamp CMG_7184-008712-13. Because Chipotle has designated this document “HIGHLY
18 CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

19 12. Attached hereto as Exhibit 11 is a true and correct copy of an email to Joshua Brau
20 from “Chipotle Support,” dated May 5, 2015, concerning “CASTRO VALLEY B2- MAY 4-
21 GMO QUESTIONS,” produced by Chipotle in this litigation from Joshua Brau’s custodial files,
22 and bearing the Bates stamp CMG_7184-008699. Because Chipotle has designated this
23 document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

24 13. Attached hereto as Exhibit 12 is a true and correct copy of an email to Joshua Brau
25 from “Chipotle Support,” dated May 4, 2015, concerning “CONCERNS ABOUT LACK OF
26 ORGANIC MEAT AND DAIRY – FOLLOW UP,” produced by Chipotle in this litigation from
27 Joshua Brau’s custodial files, and bearing the Bates stamp CMG_7184-008692-93. Because
28 Chipotle has designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave

1 to file it under seal.

2 14. Attached hereto as Exhibit 13 is a true and correct copy of an email to Joshua Brau
3 from “Chipotle Support,” dated April 27, 2015, concerning “GMO COMMENT,” produced by
4 Chipotle in this litigation and bearing the Bates stamp CMG_7184-008605. Because Chipotle has
5 designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under
6 seal.

7 15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the
8 transcript from the Videotaped Deposition of Sarah Deigert, taken April 19, 2017.

9 16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the
10 transcript from the Videotaped Deposition of Martin Schneider, taken April 20, 2017.

11 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the
12 transcript from the Videotaped Deposition of Theresa Gamage, taken May 3, 2017.

13 18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from the
14 transcript from the Videotaped Deposition of Nadia Maria Parikka, taken May 5, 2017.

15 19. Attached hereto as Exhibit 18 is a true and correct copy of the Declaration of Sarah
16 Deigert in Support of Plaintiffs’ Motion for Class Certification, signed November 15, 2017.

17 20. Attached hereto as Exhibit 19 is a true and correct copy of the Declaration of
18 Martin Schneider in Support of Plaintiffs’ Motion for Class Certification, signed November 14,
19 2017.

20 21. Attached hereto as Exhibit 20 is a true and correct copy of the Declaration of
21 Theresa Gamage in Support of Plaintiffs’ Motion for Class Certification, signed November 15,
22 2017.

23 22. Attached hereto as Exhibit 21 is a true and correct copy of the Declaration of
24 Nadia Parikka in Support of Plaintiffs’ Motion for Class Certification, signed November 16,
25 2017.

26 23. Attached hereto as Exhibit 22 is a true and correct copy of screenshots from
27 Defendant’s website, produced by Chipotle in this litigation and bearing the Bates stamp
28 CMG_7184-000001-044.

1 24. Attached hereto as Exhibit 23 is a true and correct copy of the May 2014 version
2 of “Non-GMO Project Standard” from the Non-GMO Project, produced by Chipotle in this
3 litigation from Joshua Brau’s custodial files, and bearing the Bates stamp CMG_7184-007707-43.
4 Because Chipotle has designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will
5 seek leave to file it under seal.

6 25. Attached hereto as Exhibit 24 is a true and correct copy of the “GMO FAQs” from
7 the Non-GMO Project, produced by Chipotle in this litigation from Joshua Brau’s custodial files,
8 and bearing the Bates stamp CMG_7184-006439-40. Because Chipotle has designated this
9 document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

10 26. Attached hereto as Exhibit 25 is a true and correct copy of an email from Joshua
11 Brau to Douglas George, dated February 10, 2015, with the subject line “FW NGMO Meat Seed
12 & Feed Project,” with an attachment entitled “Seed & Feed National Meat Project,” a December
13 2014 Meeting Report from Green America, produced by Chipotle in this litigation from Joshua
14 Brau’s custodial files, and bearing the Bates stamp CMG_7184-009736-44. Because Chipotle
15 has designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it
16 under seal.

17 27. Attached hereto as Exhibit 26 is a true and correct copy of an email from Joshua
18 Brau to Douglas George, Leby Leuthold, Joel Martin, Andrew Mize, and Jason Von Rohr, dated
19 November 11, 2014, with the subject line “New USDA policy on non-GM feed,” produced by
20 Chipotle in this litigation from Joshua Brau’s custodial files, and bearing the Bates stamp
21 CMG_7184-009702. Because Chipotle has designated this document “HIGHLY
22 CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

23 28. Attached hereto as Exhibit 27 is a true and correct copy of a document entitled
24 “Guidance for Industry: Voluntary Labeling Indicating Whether Foods Have or Have Not Been
25 Derived from Genetically Engineered Plants,” produced by Plaintiffs, and bearing the Bates
26 stamp PL 0241-51.

27 29. Attached hereto as Exhibit 28 is a true and correct copy of true and correct copy of
28 excerpts from the transcript from the Deposition Under Oral Examination of: Joshua Brau, taken

1 July 6, 2017.

2 30. Attached hereto as Exhibit 29 is a true and correct copy of an email from Joshua
3 Brau to Nicholas Ceglia, dated March 13, 2015, with the subject line “GMO hierarchy,” produced
4 by Chipotle in this litigation from Joshua Brau’s custodial files, and bearing the Bates stamp
5 CMG_7184-024070. Because Chipotle has designated this document “HIGHLY
6 CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

7 31. Attached hereto as Exhibit 30 is a true and correct copy of true and correct copy of
8 excerpts from the transcript from the Videotape Deposition of: William Espey, taken June 23,
9 2017.

10 32. Attached hereto as Exhibit 31 is a true and correct copy of true and correct copy of
11 excerpts from the transcript from the Confidential Videotaped Deposition of Anna Tou, taken
12 June 27, 2017.

13 33. Attached hereto as Exhibit 32 is a true and correct copy of an email from Joshua
14 Brau to William Espey, dated April 10, 2015, with the subject line “Re: (GMO/Tortilla
15 Announcement) GMO Page Article Copy,” produced by Chipotle in this litigation from Joshua
16 Brau’s custodial files, and bearing the Bates stamp CMG_7184-023599-601. Because Chipotle
17 has designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it
18 under seal.

19 34. Attached hereto as Exhibit 33 is a true and correct copy of an email from Dea
20 Lievano to Joshua Brau, dated April 30, 2015, with the subject line “GMO Labelling
21 guidelines.docx,” produced by Chipotle in this litigation from Joshua Brau’s custodial files, and
22 bearing the Bates stamp CMG_7184-011833-34. Because Chipotle has designated this document
23 “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under seal.

24 35. Attached hereto as Exhibit 34 is a true and correct copy of a survey commissioned
25 by Chipotle, produced by Chipotle in this litigation, and bearing the Bates stamp CMG_7184-
26 003790-95. Because Chipotle has designated this document “HIGHLY CONFIDENTIAL,”
27 Plaintiffs will seek leave to file it under seal.

28 36. Attached hereto as Exhibit 35 is a true and correct copy of a survey commissioned

1 by Chipotle, produced by Chipotle in this litigation, and bearing the Bates stamp CMG_7184-
2 001181-87. Because Chipotle has designated this document "HIGHLY CONFIDENTIAL,"
3 Plaintiffs will seek leave to file it under seal.

4 37. Attached hereto as Exhibit 36 is a true and correct copy of experts from a
5 document entitled [REDACTED] dated July 10, 2015, produced by Chipotle
6 in this litigation, and the entire document bearing the Bates stamp CMG/7184-004095-141.
7 Because Chipotle has designated this document "HIGHLY CONFIDENTIAL," Plaintiffs will
8 seek leave to file it under seal.

9 38. Attached hereto as Exhibit 37 is a true and correct copy of experts from a
10 document entitled [REDACTED] dated October 13, 2015, produced by
11 Chipotle in this litigation, and the entire document bearing the Bates stamp CMG/7184-002484-
12 561. Because Chipotle has designated this document "HIGHLY CONFIDENTIAL," Plaintiffs
13 will seek leave to file it under seal.

14 39. Attached hereto as Exhibit 38 is a true and correct copy of experts from a
15 document entitled [REDACTED] dated January 12, 2016, produced by
16 Chipotle in this litigation, and the entire document bearing the Bates stamp CMG/7184-002410-
17 483. Because Chipotle has designated this document "HIGHLY CONFIDENTIAL," Plaintiffs
18 will seek leave to file it under seal.

19 40. Attached hereto as Exhibit 39 is a true and correct copy of a string of emails, the
20 first of which is from [REDACTED] to [REDACTED] Joshua Brau, [REDACTED]
21 [REDACTED] dated June 22, 2015, with the subject line [REDACTED] produced by
22 Chipotle in this litigation from Joshua Brau's custodial files, and bearing the Bates stamp
23 CMG/7184-009603-613. Because Chipotle has designated this document "HIGHLY
24 CONFIDENTIAL," Plaintiffs will seek leave to file it under seal.

25 41. Attached hereto as Exhibit 40 is a true and correct copy of an email from Billy
26 Egger to Elaine Janosy, Jason Von Rohr, and Joshua Brau, dated September 29, 2014, with the
27 subject line "NON GMO VERIFIED," produced by Chipotle in this litigation from Joshua Brau's
28 custodial files, and bearing the Bates stamp CMG_7184-0097803-04. Because Chipotle has

1 designated this document “HIGHLY CONFIDENTIAL,” Plaintiffs will seek leave to file it under
2 seal.

3 42. Attached hereto as Exhibit 41 is a true and correct copy of the Report of Dr. Jon A.
4 Krosnick, dated August 11, 2017. Because parts of this report refer to documents that have been
5 marked “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” by Defendant, Plaintiffs will
6 seek leave to file parts of the report confidential.

7 43. Attached hereto as Exhibit 42 is a true and correct copy of the Declaration of Colin
8 B. Weir, dated August 11, 2017. Because parts of this report refer to documents that have been
9 marked “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” by Defendant, Plaintiffs will
10 seek leave to file parts of the report confidential.

11 44. To prepare for class certification and trial, Kaplan Fox served requests for
12 production, requests for admissions, and interrogatories on Chipotle, and reviewed tens of
13 thousands of pages of documents produced by Chipotle; negotiated a protective order and the
14 scope of Chipotle’s production of electronically-stored information; retained and consulted with
15 experts; prepared for and took depositions of Chipotle’s corporate representatives and others
16 regarding Chipotle’s advertising, marketing and consumer insights; responded to interrogatories,
17 admissions, and requests for production of documents to the proposed class representatives, and
18 defended their depositions. Kaplan Fox also opposed Chipotle’s motions to dismiss and engaged
19 in motion practice concerning, among other things, the timing, nature, and scope of discovery.

20 45. My firm is prepared to continue to devote the resources necessary to represent the
21 interests of the proposed classes. My firm has committed the necessary attorneys to the litigation,
22 and will continue to dedicate resources as necessary to take this case through pre-trial, trial, and
23 any appeals that may arise. In addition, Kaplan Fox has the financial wherewithal to fund the
24 case and absorb whatever expenses may arise, including expert expenses for the duration of the
25 case, even if the case were to take several years to resolve. My firm has demonstrated its
26 willingness to fund complex class action cases to successful conclusion in the past, and will do so
27 here. Our firm resume, a true and correct copy of which is attached as Exhibit 43, demonstrates
28 our successful experience prosecuting class actions.

1 I declare under penalty of perjury under the laws of the United States and the State of
2 California that the foregoing is true and correct.

3 Executed this 17th day of November, 2017, in San Francisco, California.

4
5 /s/ Laurence D. King

Laurence D. King